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TO: Senate Committee on Children and Families and Workforce Development

FROM: Kimmie Collins
Legislative Liaison, Department of Children and Families

RE: SB 517/ AB 705 Interstate Compact on the Placement of Children

Senator Jauch and members of the committee thank you for this opportunity to discuss with you SB 517, a bill that will bring Wisconsin into compliance with federal changes to the Interstate Compact on the Placement of Children (ICPC).

The Department of Children and Families feels that this bill, which reforms certain aspects of the current Interstate Compact on the Placement of Children (ICPC), ameliorates many of the problems that exist in the current ICPC.

Ten states have codified the new ICPC into their state statutes and others are currently considering it. Upon ratification of the compact by the 35th state, the national compact will be officially enacted. Those states that do not enact the new compact will not have the protection of federal law when placing or receiving children across state lines, and will have to enter into individual Memoranda of Understanding with each state to place children in different states. For this reason it is imperative that Wisconsin acts now to be one of the 35 states who adopt the compact.

The current ICPC that was developed in the 1960s is outdated and has led to problems in the enforcement of requirements and implementation among states. When the new ICPC is ratified by 35 states, an Interstate Commission for the Placement of Children will be created for the purpose of fostering cohesion between member states. It will also promulgate rules that are binding on member states and enforce compliance among the member states by providing technical assistance and mediation. Finally it will hold states legally accountable for their actions regarding the safety and well-being of children received from and sent to other states.

SB 517 ensures suitable and timely placements for children whose safety and well-being depend on prompt placement. It requires a receiving state to complete an assessment of a potential home within a specific timeframe. This bill also specifies that a receiving state may purchase home studies from licensed agencies in order to expedite the child placement approval process. It allows provisional placements with relatives that are

considered safe and suitable, prior to them completing the education and training requirements.

The new ICPC narrows the applicability of the Compact to the interstate placement of children in the foster care system and children placed across state lines for adoption. Additional information is available in the handout.

In order to create a seamless process of placing children across state lines, SB 517 effectively clarifies the responsibilities of states sending children to other states and states receiving children from other states. It also fosters better interstate communication and understanding regarding child placement issues by adding a stipulation that any judicial officers may be present for testimonies at hearings in person, via telephone, audio-video conference, or other means approved by the Interstate Commission. This clarification of state duties on matters of child placement encourages interstate cooperation and advances the purpose of the ICPC- to place children in a safe environment that best suits their needs as quickly as possible.

In conclusion, DCF supports this bill because it effectively deals with the issues of enforcement, implementation, jurisdiction, expediency, and timeliness that the current ICPC fails to handle properly. Thank you for the opportunity to testify. We look forward to working together with the assembly and senate to advance this bill to improve the well-being of children within our state and around the country.

Interstate Compact on the Placement of Children (ICPC) Side by Side Comparison of the New and Current ICPC

The proposed New ICPC presents a legal framework, which provides for the following:

1. Timely placements across state lines.
2. Suitability of prospective family placements/resources.
3. Provision of needed support services
4. Narrows the applicability of the Compact to interstate placement of children in the foster care system and for interstate adoptions.
5. Requires the development of time frames for completion of the approval process.
6. Establishes clear rulemaking authority
7. Provides enforcement mechanisms
8. Clarifies state responsibility
9. Ensures states' ability to purchase home studies from licensed agencies to expedite process.

Sending State (SS); Receiving State (RS); Sending Agency (SA); Residential Treatment Facility (RTF); Public Child Placing Agency (PCPA); Private Child Placing Agency (PrCPA)

ISSUE	NEW ICPC (REWRITE)	CURRENT ICPC
Applicability Article III	Does not apply to interstate placement of children by parents (w/ legal authority) who place with: Residential Treatment Facilities (RTF) Relatives Non-relatives provided the placement is not a preliminary step to adoption.	Applies to interstate placements by parents (w/legal authority) who place with: Residential Treatment Facilities (RTF) Relatives except the following exempted subset: parent, step parent, adult sister/brother/aunt/uncle or non- agency guardian Non-relative
	Does not apply to interstate placement of a child in a custody proceeding in which the public child placing agency is not a party, provided, placement is not intended to effectuate an adoption.	Same
	Does not apply to foreign adoptions	Same
	Applies to interstate placements which are a preliminary step to adoption by: • Public child placing agency • Private child placing agency • Private person • Attorney	Same
	Applies to interstate placement of a child who is an adjudicated delinquent or unmanageable if: • Placement is in Residential Treatment Facility (RTF) • Child is being placed in another member state and the placement is not covered under another compact.	Applies to interstate placement of child in an institution who is an adjudicated delinquent if: Child is given a court hearing on notice to parent/guardian with opportunity to be heard prior to his being sent to other state; and Court finds equivalent facilities are unavailable in SS; and Institutional care in the other jurisdiction is in the best interest of the child and will not produce hardship.

Interstate Compact on the Placement of Children (ICPC)

Side by Side Comparison of the New and Current ICPC

	<p>Residential Treatment Facility (RTF) placements require notice (only) to the RS when Public Child placing agency is making placement in an RTF.</p> <p>Provides Exemption to non-custodial parent Does not apply to placements made by public/private agencies with non-custodial parents, if: Non-custodial parent proves to SS court substantial relationship with child; and SS court makes a written finding that placement is not contrary to the best interest of the child; and the court dismisses its jurisdiction in cases where the public child placing agency is a party to the proceeding.</p>	<p>All placements in RTF require: Notice by the SS of placement with RTF A determination by the RS that placement is not contrary to the interests of the child (approval).</p> <p>Does not provide Exemption to non-custodial parent. applies to placements made by sending agencies with non-custodial parents applies to placements by relatives who are not a parent, step parent, adult sister/brother/aunt/uncle or non- agency guardian (Art. VIII). with a non-custodial parent.</p>
<p>Jurisdiction Article IV</p>	<p>Clarifies that jurisdiction means the authority and power of a court to hear and decide matters, including the authority to order the return of the child to the Sending State.</p> <p>Except as provided in Art. IV & V. (in priv. and independent adoptions) and in interstate placements in which PCPA is not a party to proceeding, SS shall retain jurisdiction over a child with respect to all matters of custody and disposition that I would have had if the child remained in the sending state.</p> <p>SS shall have authority to terminate jurisdiction if the child is: Adopted Reaches age of majority under SS laws. Achieves legal independences under SS laws; SS public child placing agency requests termination and RS public child agency provides concurrence.</p> <p>Adds: SS shall have authority to terminate jurisdiction if : Guardianship is created by a RS court with concurrence of a court in the SS. An Indian Tribe has petitioned and received jurisdiction from the court in SS The child is reunified with the parent in the RS, who is the subject of allegations or findings of abuse and neglect, only with concurrence of the public child placing agency in the RS</p> <p>RS child placing agency must be notified upon SS court termination of jurisdiction.</p>	<p>Jurisdiction and financial responsibility is retained with the Sending Agency to determine all matters in relation to custody, supervision, care and disposition of the child had the child remained in the state including authority to order return of the child to the Sending State.</p> <p>Sending Agency retains jurisdiction, until the child is:</p> <ul style="list-style-type: none"> - Adopted. - Reaches age of majority - Becomes self supporting; or - Discharged with concurrence from RS. <p>Does not provide for the transfer/termination of court jurisdiction without concurrence from the RS.</p>

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	<p>Adds: In private and independent adoptions, the substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption; and the court in which the adoption proceeding is filed shall have subject matter jurisdiction on all substantive issues relating to adoption except when the child:</p> <ul style="list-style-type: none"> - is a ward of another court that established jurisdiction prior to the placement; or - is in the legal custody of a PCPA in the sending state; or - when a court in the sending state has otherwise appropriately assumed Jurisdiction. <p>Adds: A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.</p>	
	<p>Adds: testimony for hearings before any judicial officer in interstate placements may occur in person, or by telephone, audio-video conference, or such other means as approved by the Interstate Commission (IC) and judicial officers may communicate with each other and other persons as permitted by their Canons of Judicial conduct and rules promulgated by IC.</p>	N/A
Placement Evaluation Article V	<p>Distinguishes between an Assessment and a Home Study:</p> <p>Assessment – is an evaluation of a prospective placement by a PCPA to determine if the placement meets individualized needs of the child.</p> <p>Home Study – means an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located.</p>	RS receives descriptive Notice (home study) and any other supporting information it deems necessary to carry out purpose and policy of Compact; to determine if placement is contrary to the interests of the child; and, to comply with applicable laws of RS.
	RS receives written request for assessment by PCPA and a request for approval and required content by PrCPA (placing agency)	
	<p>Private requests for adoption must include a request for approval and required content to include:</p> <ol style="list-style-type: none"> 1. A request for approval identifying the 	Private requests for adoption must provide (as determined by RS, please see above):

Interstate Compact on the Placement of Children (ICPC) Side by Side Comparison of the New and Current ICPC

	<p>child, birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval; and</p> <p>2. The appropriate consents or relinquishments signed by the birth-parents in accordance with the laws of the sending state, or where permitted the laws of the state where the adoption will be finalized; and</p> <p>3. Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and</p> <p>4. A home study; and</p> <p>5. An acknowledgment of legal risk signed by the prospective adoptive parents.</p>	<p>Same</p> <p>Same</p> <p>Same</p> <p>Same</p> <p>Same</p>
	<p>Allows: Provisional Travel prior to final approval in adoptions by PrCPA. A child may be sent or brought, or caused to be sent or brought into a receiving state upon receipt and immediate review of required content in a request for approval in both the sending and receiving state PCPA.</p> <p>Adds: Sending and Receiving state may request additional information or documents prior to finalization of approved placement but may not delay travel with child if required content has been submitted, received and reviewed by PCPA in sending and receiving state.</p> <p>Adds: Approval is required from the PCPA in the RS for a provisional or approved placement as provided for in the rules of the Interstate Commission.</p> <p>Adds: For placements by PrCPA, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.</p>	<p>Does not allow provisional travel by PrCPA prior to final approval by PCPA</p>

Interstate Compact on the Placement of Children (ICPC)

Side by Side Comparison of the New and Current ICPC

	Allows: SS to ask if placement qualifies as Provisional Placement . Defines Provisional Placement: As safe and suitable and can be made without RS requirement for education and training prior to placement. Requires: Timeframes for RS to complete assessment	Does not allow: Provisional placements with relatives.
		Recommends: 6 weeks (30 working days) processing time for receipt to approval or denial of a placement.
Placement Authority <i>Article VI</i>	Prohibits: Except as otherwise provided in this Compact, placement until RS finds placement is safe and suitable (approves) and in compliance with RS laws	Same
	Provides: Administrative review of RS denial of placement to be conducted in RS pursuant to its applicable Administrative Procedures Act .	Does not require or provide for an appeals process or administrative review.
Placing Agency Responsibility <i>Article VII</i>	Continues: SS has financial responsibility for: <ul style="list-style-type: none"> On-going support and services for child 	Same
	Continues: RS has financial responsibility for: <ul style="list-style-type: none"> Cost of assessment Cost of supervision 	Same
	Allows: RS may charge private agencies for services prior to adoption for: <ul style="list-style-type: none"> Cost of assessment Cost of supervision 	Allows: RS to provide services as part of reciprocity to SS public agency for services prior to adoption for: <ul style="list-style-type: none"> Cost of home study Cost of supervision
	Allows: Members to enter limited agreements to: <ul style="list-style-type: none"> facilitate timely assessments facilitate timely supervision 	Same
	Clarifies: SS may contract w licensed RS agencies to provide supervision or conduct assessments in RS	Same (discretionary depending upon state)
Interstate Commission <i>Articles VIII-XI</i>	Creates: One-state one-vote body to make rules and regulations for signatories and operates under 'sunshine' and open-meeting provisions. Provides: Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and manner provided in the compact.	Current: Rules and Regulations promulgated by AAICPC at annual meeting. One vote per state (no due process, sunshine or open meeting provisions).

Interstate Compact on the Placement of Children (ICPC)
Side by Side Comparison of the New and Current ICPC

Enforcement of Compact <i>Article XII</i>	Provides for: <ul style="list-style-type: none"> • Mediation and binding dispute resolution • Remedial training • Specific technical assistance • Judicial action by member states of Interstate Commission to enforce compliance Enforcement – Upon determination by Interstate Commission (IC), the IC may provide: Remedial training Written Notice By majority vote, initiate state legal action or other remedies available under state law	Provides penalties: <ul style="list-style-type: none"> • Violations constitute violations of laws in the SS, RS, or state where the sending agency is located. Violations are subject to: <ul style="list-style-type: none"> - Penalties in either jurisdiction - Suspension or revocation of license, permit, or other legal authorization held by the SA which allows it to place or care for children. Enforcement - Pier Accountability/ Suit in Court/Judicial Action
Financing of Interstate Commission <i>Article XIII</i>	Signatory representatives will agree to budget and allocate costs among members	N/A
Tribes <i>Article XVIII</i>	Provides for: Development of guidelines for use of compact by tribes.	N/A